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FISCAL IMPACT STATEMENT

LS 6606

BILL NUMBER: HB 1337

NOTE PREPARED: Jan 26, 2009

BILL AMENDED:

SUBJECT: Update of Internal Revenue Code References.

FIRST AUTHOR: Rep. Pelath

FIRST SPONSOR:

BILL STATUS: As Introduced

FUNDS AFFECTED: X GENERAL
DEDICATED
FEDERAL

IMPACT: State & Local

Summary of Legislation: The bill amends the definition of federal "Internal Revenue Code" used in Indiana statutes and regulations to refer to the Internal Revenue Code in effect on January 1, 2009.

Effective Date: January 1, 2009 (retroactive).

Explanation of State Expenditures:

Explanation of State Revenues: The bill updates the reference to the Internal Revenue Code (IRC) to incorporate all the federal changes made up to January 1, 2009. The current reference to the IRC pertains to all IRC provisions amended and in effect on January 1, 2008. The update would include changes as a result of the following federal acts:

- (1) The *Economic Stimulus Act of 2008* (P. L. 110-185), signed into law on February 13, 2008.
- (2) The *Heroes Earnings Assistance and Relief Tax Act of 2008* (P. L. 110-245), signed into law on June 17, 2008.
- (3) The *Housing and Economic Recovery Act of 2008* (P. L. 110-289), signed into law on July 26, 2008.
- (4) The *Emergency Economic Stabilization Act of 2008* (P. L. 110-243), signed into law on October 3, 2008.

It is estimated that the fiscal impact from the bill will begin in FY 2009. The estimated fiscal impact of the bill and the federal acts generating the fiscal impact are summarized in the table below. The *Economic Stimulus Act of 2008* is not expected to generate a fiscal impact.

Provisions (Revenue impact in millions)	FY 2009	FY 2010	FY 2011
Heroes Earnings Assistance and Relief Tax Act	(0.02)	(0.03)	(0.02)
Housing and Economic Recovery Act	0	0.04	0.25
Emergency Economic Stabilization Act			
Ordinary treatment of gain/loss from sales of Fannie Mae/Freddie Mac preferred stock by financial institutions	(3.1)	(2.6)	(1.7)
Exclusion of discharged principal residence mortgage debt	0	0	(3.5)
Deduction for higher education tuition and expenses	(6.9)	(7.1)	(1.6)
Exclusions relating to U.S. company income from foreign passive investments	(2.5)	(8.7)	(2.6)
Depreciation of leasehold, restaurant, and retail improvements	(4.9)	(6.1)	(3.4)
Expensing environmental remediation costs	(1.5)	(0.8)	(0.01)
Bonus depreciation for certain property in federal disaster areas	(2.7)	(4.2)	(3.9)
Other provisions	(5.9)	(5.3)	(2.0)
Total Impact on State Revenue	(27.5)	(34.8)	(18.5)

The *Heroes Earnings Assistance and Relief Tax Act* includes the following provisions:

- (1) A permanent extension of the election to include combat pay in earned income for purposes of the earned income credit.
- (2) A permanent extension of rules under which the 10% early withdrawal penalty does not apply to certain distributions from qualified retirement plans for reservists called to active duty.

The *Housing and Economic Recovery Act* includes a provision that the income exclusion for the gain a taxpayer receives on the sale of his or her principal residence is reduced based on time the taxpayer did not use the property as his or her principal residence.

The *Emergency Economic Stabilization Act* includes the following provisions:

- (1) A provision that allows a financial institution to treat the gain or loss from the sale of preferred stock in Fannie Mae or Freddie Mac as ordinary gain or loss and not as a capital gain or loss. The provision allows losses from the sale of such stock to be written off against ordinary income instead of only capital gains. The provision applies to preferred Fannie Mae or Freddie Mac stock held by a financial institution on September 6, 2008, or sold by a financial institution between January 1, 2008, and September 7, 2008.
- (2) A temporary extension of the exclusion (for tax years 2010, 2011, and 2012) for any income received by a taxpayer by reason of discharge, either in whole or in part, of debt on the taxpayers' principal residence.
- (3) A temporary extension of the deduction (for tax years 2008 and 2009) for higher education tuition and expenses.

- (4) A temporary extension of the exclusion (for tax year 2009) for certain income derived by controlled foreign corporations (CFCs) conducting banking, financing, or insurance business.
- (5) A temporary exclusion (for tax year 2009) for certain income derived by a CFC from dividends, interest, rents, and royalties paid to the CFC from a related CFC.
- (5) A temporary extension of the accelerated cost recovery period (for tax years 2008 and 2009) for certain leasehold, restaurant, and retail building improvements, and new restaurants. It applies only to leasehold and restaurant building improvements placed into service in 2008 and 2009; and retail building improvements and new restaurants placed into service in 2009.
- (6) A temporary extension of the deduction (for tax years 2008 and 2009) for certain environmental remediation expenses.
- (7) A bonus depreciation provision (50% depreciation in the first year) for certain real and personal property placed into service in 2008 and 2009 in a disaster area relating to a federally declared disaster occurring before January 1, 2010.

Other provisions of the ***Emergency Economic Stabilization Act*** include temporary extensions of the following: (1) the deduction for construction of energy-efficient commercial buildings; (2) special expensing provisions for refinery property; (3) the deduction for teacher classroom expenses; and (4) special expensing provisions for film and TV production costs. The ***Emergency Economic Stabilization Act*** also includes the following: (1) a bonus depreciation provision for reuse and recycling property placed into service after August 31, 2008; (2) special expensing provisions for certain farm machinery and equipment placed into service in 2009; and (3) special provisions mitigating impacts of natural disasters.

Explanation of Local Expenditures:

Explanation of Local Revenues: The IRC update could potentially affect taxable income of individual taxpayers. The impact on counties imposing local option income taxes is indeterminable and would vary.

State Agencies Affected: Department of State Revenue.

Local Agencies Affected: Counties with local option income taxes.

Information Sources: U.S. Congress, Joint Committee on Taxation, <http://www.house.gov/jct/tableofcnts.html>; Tom Conley, Department of State Revenue, (317) 232-2107; Bob Lain, State Budget Agency, (317) 232-3471.

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